THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 9246 OF 2007

Dated 15th November, 2007

Between:

Ch.Ramesh Babu and others.

…Petitioners.

And

The Deputy Registrar of Cooperative Societies,
Mamillagudem, Khammam and another.

…Respondents.

ORAL ORDER:

Former Secretary and Presidents of the Primary Agricultural Cooperative Society, Motapuram, Nelakondapally Mandal of Khammam District have filed this writ petition questioning the surcharge notice dated 29.3.2007 issued in proceedings Rc.No.46/2006-E.

The President and members of the Primary Agricultural Cooperative Society, Motapuram reported that the employees and Presidents of the society for the period from 1990-91 to 2003-04 had committed financial irregularities and misappropriated the funds of the society and requested for initiation of recovery proceedings under Section 60(1) of the A.P. Cooperative Societies Act, 1964. Pursuant to the said complaint, the Deputy Registrar of Cooperative Societies has issued impugned notice directing the petitioners herein to very their responsibility by appearing before him on 12.4.2007 at 11 a.m. The said notice is questioned herein, mainly, on the ground that earlier there was an order of surcharge dated 21.1.2003 passed in Rc.No.784/2002-E, against which, the first petitioner filed an appeal before the A.P.Cooperative Tribunal at Warangal in C.T.A. No. 66 of 2003 and the Tribunal allowed the appeal filed by the first petitioner and remanded the matter back for fresh consideration. It is stated that when the said proceedings relating to the very same years viz. 1990-91 to 2003-04 are pending, the impugned notice dated 29.32007 which is issued suggesting recovery of Rs.18,28,737-81 ps, is illegal.

In the counter affidavit filed on behalf of the respondents, it is stated that three different proceedings are initiated on different charges. One set of allegations were made and proceedings were initiated for recovery of an amount of Rs.2,97,371/-, another

proceedings were initiated for recovery of an amount of Rs. 32,427 and the third proceedings were initiated for recovery of an amount of Rs. 18,28,737.81 ps. It is stated in the counter affidavit that though surcharge orders were passed on 21.1.2003 in proceedings Rc.No.784/2001-E with regard to the amount of Rs.2,97,371/-, but, in view of the allowing of the appeal by the Cooperative Tribunal and remitting the matter for fresh consideration, the matter is still under consideration and no orders have been passed as yet. It is stated that the impugned notice dated 29.3.2007 is on different set of allegations based on the representation made by the President and members of the Society pursuant to Final Audit Reports for the years from 1990-91 to 2003-04.

It is submitted by the learned counsel for the petitioners that as much as the earlier order of surcharge was passed on 21.1.2003 for the same period mentioned in the impugned notice, it is not open for the respondents to issue the present impugned notice.

It is to be seen that the charges which are subject matter of recovery proceedings covered by order dated 21.1.2003 are on different set of allegations. Further, the impugned notice is only a notice to verify the responsibility of the petitioners and even if any of the issues are already covered in the earlier surcharge order, while it is open for the petitioners to submit their explanation in response to the impugned notice, there appears no reason at all for the petitioners to approach this court at this stage. As much as it is stated that the impugned notice is on different set of allegations not covered by earlier order and in view of the representation made by the President and the members of the society, it is always open for the respondents to make an enquiry. In that view of the matter, I do not find any illegality to interfere with the impugned notice at this stage. However, it is left open to the petitioners to raise all objections in response to the impugned notice.

Subject to above observation, the writ petition is dismissed. No costs.

15-11-2007 **R.SUBHASH REDDY, J.**